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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,248	05/09/2001	Shinji Ebata	Q64412	2998

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/851,248

Applicant(s)

EBATA, SHINJI

Examiner

Dennis Ruhl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-84 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-84 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ 3/3/04; 10/30/03; 11/26/03; 6/19/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

one with unknown date
of submission - 5 total IDS forms (1449's) 8/9/04

With respect to the IDS of 6/19/03, the cited references (which are not in English) have not been considered because the copy of the Japanese office action is not considered to be a statement of relevancy. The submitted document that alleges to be a statement of relevancy does not address each cited reference in a manner that allows the examiner to understand what the references discloses. It is not clear what the references teach in view of the submitted statement of relevancy.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9,13,20,22-25,31,38,48,49,53,83, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claims 9,13,20,31,48,53,83, it is not clear what the recitation of "for each of plural different items" or "for each of said plural different items" (which has no antecedent basis) is referring to. What is this? What are the items? This is not clear and renders the claims indefinite.

For claims 22,23,24,25, there is no antecedent basis for "said portable telephone". No telephone of any kind has previously been recited so the examiner is not clear as to what this is referring to.

For claims 38,49, with respect to the recitation of "said taxi" at line 8, this seems to be in contradiction to the "at least one taxi" recited previously. How many taxis are in the scope of this claim? One or at least one? The claim recites both.

For claim 83, the language "at the time of said change" renders the claim indefinite. What change is being referred to here?

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pomerantz (6122591) in view of Smith et al. (6430496).

Applicant should take notice that with respect to the pending article claims that contain limitations directed to method steps defining how the method of the invention works, these limitations have received patentable weight to the extent that the prior art must be capable of doing what is claimed.

For claims 1-4,9-12,18,20,22,24,34-39,41,42,48,49,51,52, 58,59,63,75-78, Pomerantz discloses providing a transportation service that includes at least one taxi. The taxi has a taxi trip meter system that utilizes GPS technology to determine the taxi's present location and calculates a fare for the customer based on a specified destination. Pomerantz discloses a GPS terminal 13 that operates as claimed. Pomerantz discloses that the taxi has a computer 10 that is fully capable of receiving destination and location information as claimed (see column 4, lines 17-20) and calculates an optimal route. Pomerantz discloses the finding of the optimal route (shortest distance/time) from the current location of the taxi to the destination location. Pomerantz discloses that a

charge is calculated for the optimal route, the distance, etc. as claimed. Pomerantz does not disclose that the information is transmitted from the center equipment to the taxi and from the taxi to the center equipment. Smith discloses a taxi dispatching system that is highly automated and efficient. Smith discloses that a central server with associated databases communicates with a taxi fleet via wireless communication 22 to provide a dispatching/monitoring system. This is what the examiner considers to be the claimed center equipment. Smith discloses a server 10, an ITS system, communication means 22, and map storage means (col. 2, lines 1-5). It is considered inherent in Smith that fee data is stored so that a fare price can be calculated; otherwise a fare could not be calculated. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the taxi system of Pomerantz with the dispatching system of Smith so that a highly automated and efficient system can be realized. This would then result in location information, etc., being transmitted to the central dispatching location for processing and then the taxi would receive information from the center equipment. Instead of having each taxi's computer store the street information and calculate optimal routes, etc. the center equipment would perform the tasks. The system would operate as claimed.

For claim 40,45,60,62, Pomerantz discloses that the customer can be presented with advanced notice of the fare. This allows one to ensure that the customer has enough money to be able to pay. Not disclosed is the concept of having the customer pay the fare before the transportation is provided to the customer. It is old and well known in society that some dishonest taxi riders may try to avoid paying the fare and

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will "stiff" the driver by fleeing upon arrival at the destination, so having the customer pay up front is desirable. It is also considered obvious that a provider of a service wants to be paid up front to ensure they are getting their money prior to providing services. Airlines make you pay prior to transportation being provided. Cruise lines make you pay before providing transportation. A public bus requires payment prior to the transportation service being provided. It would have been obvious to one of ordinary skill in the art to have the customer pay the fare prior to the actual trip to ensure payment and to avoid an unscrupulous rider from taking off without paying.

Concerning claims 5-8,13-17,19,21,23,25,32,33,43,44,46,47,53,54,56,57, 61,65,73,74, the system of Pomerantz (modified as set forth by the examiner) would operate as claimed if the event claimed where to happen. If a customer changes the destination in route, the system would necessarily operate as claimed (by obtaining new position location information, new destination location, optimal route, associated fare for the new trip, etc.).

For claims 50,55,64,66 if the customer chooses to continue with the taxi service after being given advance notice of the fare to the desired destination, the customer has chosen the optimal route. The customer will pay the fare indicated (scope includes at the end destination).

For claims 63,65 if a customer wants a taxi to take them uptown 1 block in Manhattan, the shortest distance and shortest driving time will be the same because the destination is very close, so this claim is satisfied by the combination set forth by the examiner. It is common that if it is raining out a customer may take a taxi for just one

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block to avoid getting wet (on the way to a business lunch for example), so when the system calculates an optimal route for shortest distance and time, the route information presented to the customer will be both for the shortest distance and time because they are the same.

For claims 26-29,67-70, the recited method steps will necessarily follow from the situation of a customer choosing a new destination during transportation to an original destination when the fare is paid in advance. If you already paid the fare for transportation from A to B, and midway at M you decide you want to go to C, since you already paid for the portion of the trip from M to B which is not going to take place, this amount is credited back to the customer and applied to the new fare from midway to C. A taxi cannot charge the customer for services not rendered. The limitations of claim 66 are simply figuring out the fare for the actual legs of the trip that are taken.

For claims 30,31,71,72,74, the claimed limitations are reciting what GPS is and are satisfied by the combination set forth by the examiner. GPS operates by allowing one to view map data with current location and destination location information being graphically shown to the user. This is what GPS is. When traveling a specified route in a GPS system, the route is shown on the map so you know where to go.

5. Claims 79-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pomerantz (6122591).

For claims 79,80,82, Pomerantz discloses the invention substantially as claimed. Pomerantz discloses that the customer can be presented with advanced notice of the fare. This allows one to ensure that the customer has enough money to be able to pay.

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Not disclosed is the concept of having the customer pay the fare before the transportation is provided to the customer. It is old and well known in society that some dishonest taxi riders may try to avoid paying the fare and will "stiff" the driver by fleeing upon arrival at the destination, so having the customer pay up front is desirable. It is also considered obvious that a provider of a service wants to be paid up front to ensure they are getting their money prior to providing services. Airlines make you pay prior to transportation being provided. Cruise lines make you pay before providing transportation. A public bus requires payment prior to the transportation service being provided. It would have been obvious to one of ordinary skill in the art to have the customer pay the fare prior to the actual trip to ensure payment and to avoid an unscrupulous rider from taking off without paying.

For claim 81, the recited method steps will necessarily follow from the situation of a customer choosing a new destination during transportation to an original destination when the fare is paid in advance. If you already paid the fare for transportation from A to B, and midway at M you decide you want to go to C, if the fare from M to C is greater than what was already paid for from A to B, the customer will be asked to pay the difference.

6. Claims 83,84, are rejected under 35 U.S.C. 103(a) as being unpatentable over Pomerantz (6122591) in view of DeLorme et al. (5802492). Pomerantz discloses the invention substantially as claimed.

Pomerantz does not disclose allowing the customer to choose from more than one calculated route and having the customer pay prior to the transportation service being provided.

Concerning the limitation of paying prior to the transportation service being provided, Pomerantz discloses that the customer can be presented with advanced notice of the fare. This allows one to ensure that the customer has enough money to be able to pay. It is old and well known in society that some dishonest taxi riders may try to avoid paying the fare and will "stiff" the driver by fleeing upon arrival at the destination, so having the customer pay up front is desirable. It is also considered obvious that a provider of a service wants to be paid up front to ensure they are getting their money prior to providing services. Airlines make you pay prior to transportation being provided. Cruise lines make you pay before providing transportation. A public bus requires payment prior to the transportation service being provided. It would have been obvious to one of ordinary skill in the art to have the customer pay the fare prior to the actual trip to ensure payment and to avoid an unscrupulous rider from taking off without paying.

Concerning the limitation of allowing the customer to choose from more than one calculated route, DeLorme discloses a travel planner that can calculate routes from an origination location to a destination location. DeLorme discloses in the Background of the invention section that some prior art route planning software calculates the shortest travel route, the quickest travel route, and a preferred scenic route (for a tourist). This allows the user to choose which route they want to take depending on various factors like time, distance, scenic stops, etc. DeLorme also discloses in column 10, lines 46-47

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that the system of the invention of DeLorme calculates the shortest travel route, the quickest travel route, or a route based on user preferences. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Pomerantz with the ability to calculate more than one route for presentation to the customer (shortest, quickest, most scenic, etc.) and to present the routes to the customer so that the customer can choose the route that best suits their needs.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 703-308-2262. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DENNIS RUHL
PRIMARY EXAMINER